

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

C.A. NO.

MARYLIA DARILUS,

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Plaintiff

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v.

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COMPLAINT

VERNON HALL, INC.,

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Defendant

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1. This court has subject matter jurisdiction of this action pursuant to 29 U.S.C. § 626(c).
2. Venue in this court is invoked pursuant to 28 U.S.C. 1391(b)(1), (2) and (3).
3. The plaintiff is a natural person who currently resides in Somerville, Massachusetts.

Her date of birth is October 15, 1948.

4. The defendant, Vernon Hall, Inc., is a corporation with a place of business located in Cambridge, Massachusetts.

5. At all times material hereto, the defendant has operated a nursing home in Cambridge, Massachusetts and has been an employer within the meaning of 29 U.S.C. § 630 and G.L. c. 151B.

6. Plaintiff was employed by defendant for over 15 years until December 30, 2009. Her most recent position was as a certified nursing assistant.

7. At all times material hereto plaintiff performed her duties with the defendant in an exemplary, competent and more than adequate manner.

8. On or about December 30, 2009 the defendant corporation discharged plaintiff from her position.

9. Plaintiff presently remains fully capable of performing her former duties with defendant.

10. Defendant discharged plaintiff from her employment due to her age, then 61, and plaintiff would not have been discharged but for her then relatively advanced age. Facts supporting the inference of age discrimination include that there was no cause to discharge plaintiff, that she had an excellent work history, that she had no significant prior warnings and that a week before her discharge, the defendant's principal owner told plaintiff she was getting too old for the job and that she should retire.

11. Defendant's actions as described above were willful within the meaning of U.S.C. Section 626 and G.L. c. 151B Section 9.

12. Defendant violated 29 U.S.C. § 623 and G.L. c. 151B § 4 when it discharged plaintiff because of her age.

13. Prior to filing this action, plaintiff filed complaints with the EEOC (#16C-2010-01280) and the MCAD (#10BEM00853), which complaints alleged that plaintiff was discharged from her employment by defendant due to her age.

14. Plaintiff has exhausted her administrative remedies in filing such complaints.

Damages

15. As a result of the loss of her employment as alleged above, plaintiff has incurred damages in the nature of lost earnings and benefits and has incurred severe emotional distress.

WHEREFORE, the plaintiff prays for the following relief:

A. That she be awarded damages sufficient to compensate her for her loss of earnings, past and future, for benefits, and for her emotional distress;

B. That such damages be doubled or trebled in accordance with the terms of 29 U.S.C. § 626 and/or G.L. c. 151B Section 9;

C. That the defendant be ordered to reinstate plaintiff to her former position without loss of seniority or other benefits;

D. That she be awarded her costs of this action including reasonable attorney's fees; and

E. That this Court award her such other and further relief as it deems just and proper.

Jury Claim

The plaintiff claims a trial by jury on all of her claims.

Marylia Darilus
By her attorney,

Date: March 16, 2011

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